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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CR-4763-2019 (O&M)
Reserved on : 16.08.2022
Date of Decision : 23.08.2022

Reeta Rani

...Petitioner

versus

Surjit Kaur and Others

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Tarun Singla, Advocate for the petitioner.

ALKA SARIN, J.

The present civil revision petition under Article 227 of the Constitution of India has been filed challenging the orders dated 22.12.2015 (Annexure P-6) and 20.03.2018 (Annexure P-8) passed by the Trial Court and lower Appellate Court respectively whereby the application filed by the defendant-respondent Nos.1 to 3, 21 and 22 for dismissal of the suit was allowed on the ground that jurisdiction of the civil court was barred under Section 158(2) of the Punjab Land Revenue Act, 1887.

Brief facts relevant to the present *lis* as culled out from the plaint (Annexure P-1) are that the plaintiff-petitioner purchased land measuring 2 Kanals vide registered sale deed dated 09.03.2011. Prior to this sale, some of the co-sharers had filed a partition application before the Revenue Authorities wherein order dated 09.06.2005 was passed and question of title was decided, vide order dated 17.06.2005 Naksha Alaf was

passed, on 16.10.2007 Naksha Bey was passed, on 11.04.2008 Naksha Jeem was passed and Mutation No.6924 was sanctioned on the basis of the said partition proceedings. When the possession of the suit land was to be delivered on the basis of the partition proceedings, the plaintiff-petitioner filed a suit for declaration and permanent injunction to challenge inter-alia the partition proceedings and the orders passed therein.

Defendant-respondent Nos.1 to 3, 21, 22 and 23 filed written statement dated 23.03.2013 (Annexure P-2) contesting the suit. Defendant-respondent Nos.43 and 52 filed a separate written statement dated 01.07.2013 (Annexure P-3) and contested the suit.

On 07.05.2013 the defendant-respondent Nos.1 to 3, 21 and 22 filed an application (Annexure P-4) for dismissal of the suit of the plaintiff-petitioner on the ground that as per the provisions of the Punjab Land Revenue Act, 1887 the partition proceedings which had already become final could not be challenged before the civil court as the jurisdiction of the civil court was expressly barred. The plaintiff-petitioner filed a reply (Annexure P-5) to the said application. However, vide impugned order dated 22.12.2015 (Annexure P-6) the Trial Court allowed the application filed by the defendant-respondent Nos.1 to 3, 21 and 22 for dismissal of the suit was allowed inter-alia on the ground that jurisdiction of the civil court was barred under Section 158 of the Punjab Land Revenue Act, 1887. The plaintiff-petitioner filed an appeal against the order dated 22.12.2015. However, vide order dated 20.03.2018 (Annexure P-8) the lower Appellate Court dismissed the appeal of the plaintiff-petitioner. Hence, the present civil revision petition.

The learned counsel for the plaintiff-petitioner would contend that the Courts below have erred in dismissing the suit on the ground of it being barred under Section 158 of the Punjab Land Revenue Act, 1887. According to counsel the partition proceedings were illegal and void and since a question of title was involved the partition proceedings could be challenged before the civil court.

Heard.

From a perusal of the plaint it is clear that the plaintiff-petitioner had challenged the orders and proceedings of the Revenue Authorities passed in partition proceedings. In the said proceedings, order dated 09.06.2005 was passed and question of title was decided, vide order dated 17.06.2005 Naksha Alaf was passed, on 16.10.2007 Naksha Bey was passed, on 11.04.2008 Naksha Jeem was passed and Mutation No.6924 was sanctioned on the basis of the said partition proceedings. When the possession of the suit land was to be delivered on the basis of the partition proceedings, the plaintiff-petitioner filed the present suit for declaration and permanent injunction. The contention of the learned counsel for the plaintiff-petitioner that the orders and proceedings of the Revenue Authorities passed in partition proceedings are illegal and without jurisdiction is not sustainable as the agricultural land can be partitioned only under the provisions of the Punjab Land Revenue Act, 1887 which prescribes an elaborate procedure for the same. Remedy of appeal/revision is available against the orders passed in the partition proceedings. The jurisdiction of the civil court to look into the legality of such proceedings is very limited. Learned counsel for the plaintiff-petitioner failed to show from the plaint any illegality, perversity or

jurisdictional error in the orders and proceedings of the Revenue Authorities. Learned counsel could also not show how the plaintiff-petitioner could raise a finger at these order and proceedings since she purchased the suit land on 09.03.2011 i.e. much after culmination of the partition proceedings. The plaintiff-petitioner cannot raise a question of title since she purchased the suit land after the partition proceedings stood completed.

In **Sukhbir Kaur vs. Gurjit Singh [2012 (3) RCR Civil 94]** it was inter-alia held that *“Thus, in the present case, the partition proceedings were carried out by the Revenue Officer and in case the plaintiffs had any grievance qua the said order, they could have challenged the same by way of appeal or revision. The jurisdiction of the Civil court was, however, barred in terms of Section 158 of the Act. The Civil Court could only interfere if the question of title was involved or if the order passed by the Revenue Officer was without jurisdiction. However, in the present case, no question of title was involved and the order had been passed by the Revenue Officer while exercising his jurisdiction. Learned Additional District Judge had, thus, rightly dismissed the suit of the plaintiffs”*.

Even in **Avdesh Pandey v. Krishan Kumar [2020 (1) RCR Civil 811]** while non-suiting the plaintiff, this Court held that *“That apart, in any event, without the correctness and validity of the partition order being subjected to critical examination, the Trial Court could not grant the consequential relief of injunction, as sought by the plaintiffs. Section 158(2)(xvii) of the Act of 1887 specifically mandates that a Civil Court should not exercise jurisdiction over any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of,*

proceedings for partition, not being a question as to title in any property of which partition is sought [see Raj Kumar v. Katu Ram, (1995(1) RRR 709 : 1995(1) PLR 514) and Harjinder Singh v. Kesar Singh and others (2013(33) RCR (Civil) 273 : 2014(2) PLR 188)]”. It was further held that “However, except for baldly claiming that the partition order should be declared null and void ab initio, the plaintiffs did not even elaborate on how they chose to categorize it to be so. There is no material whatsoever to support the claim of the plaintiffs that the partition order dated 06.09.2013 is a nullity. No grounds were cited in this regard either in the suit plaint or even before this Court”.

In view of the discussion above this Court finds no infirmity in the impugned orders passed by both the Courts below. There is no merit in the civil revision petition which is accordingly dismissed. Pending applications, if any, also stand disposed off.

23.08.2022
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO